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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

APPELLANT: Frank Reisinger CONFIRMATION NO. 4346
SERIAL NO.: 09/340,782 GROUP ART UNIT: 3621
FILED: June 28, 1999 EXAMINER: Christine Owen Sherr
TITLE: METHOD FOR THE DEPENDABLE TRANSMISSION SERVICE
DATA TO A TERMINAL EQUIPMENT AND ARRANGEMENT
FOR IMPLEMENTING THE METHOD

MAIL STOP APPEAL BRIEFS - PATENT
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

S I R:

In the Notice of Non-Compliant Appeal Brief dated June 19, 2006, the Appeal Brief filed on April 5, 2006 was stated to be defective because it did not contain the items required under 37 C.F.R. § 41.37(c), or the items were not under the proper heading or in the proper order. The Examiner further explained this alleged deficiency by stating that the Table of Contents is missing. 37 C.F.R. § 41.37(c), however, makes no mention of a Table of Contents, and a Table of Contents clearly is not one of the items required by 37 C.F.R. § 41.37(c). Appellant therefore respectfully submits the Examiner has no statutory basis to hold the brief as being non-compliant for failing to include a Table of Contents.

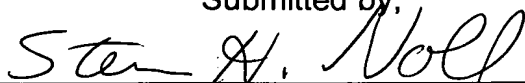
The Appeal Brief was also held to be non-compliant as not containing a concise explanation of the subject matter defined in each of the independent claims involved in the Appeal, referring to the specification by page and line number and to the drawings by reference characters. The Examiner further stated that the reason for this basis for holding the Appeal Brief non-complaint was that independent

method claims 1 and 12 are not explained with sufficient particularity. This statement of the Examiner is not understood because the description of the subject matter of the claims on appeal in the Appeal Brief is taken directly, in most cases verbatim, from the present specification. The only portion of the original specification that was not included in the Appeal Brief was directed to details of the block diagram shown in Figure 1a, since those details are not set forth in the claims and describing them in the Appeal Brief would therefore unnecessarily lengthen the Appeal Brief. Claims 1 and 12 track the flowchart shown in Figure 2 of the original application, which is described in the Appeal Brief, beginning in the third full paragraph at page 5, in the same level of detail as in the present specification. Through seven years of prosecution, there has never been a questioning of the sufficiency of the specification under 35 U.S.C. §112, first paragraph with regard to claims 1 and 12. At this stage of prosecution, when the same content of the specification is incorporated in the Appeal Brief, it is incredible for the Examiner, for the first time, to state that this description, taken directly from the original specification, does not describe claims 1 and 12 with sufficient particularity.

In any event, since the description in the Appeal Brief is taken directly from the original specification, Appellant could not add thereto in the Appeal Brief without adding "new matter" that is not described in the present specification. Appellant respectfully requests that this position of the Examiner be reconsidered, because it would strain credulity after seven years of prosecution for prosecution to now be re-opened so that the Examiner could enter, for the first time, a rejection under §112, first paragraph. The requirement to add material to the Appeal Brief with regard to claims 1 and 12 is therefore respectfully traversed.

Moreover, this is the second Notification of Non-Compliant that has been received. There does not appear to be any reason why the Examiner could not have made the latest rejections in the first Notification. It is difficult not to conclude, and Appellant does so without any intended disrespect to the Examiner, that the Examiner is simply rendering a series of technical objections under the rules in order to avoid preparing an Answer.

Submitted by,



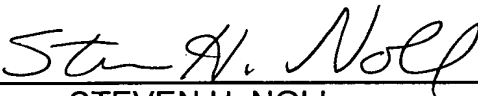
(Reg. 28,982)

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on July 18,, 2006.



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